

House Bill 81 (AS PASSED HOUSE AND SENATE)

By: Representatives Day of the 163<sup>rd</sup>, Stephens of the 164<sup>th</sup>, Bryant of the 160<sup>th</sup>, Jackson of the 161<sup>st</sup>, and Scott of the 2<sup>nd</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to tax exemptions, so as to change certain provisions regarding ad valorem tax exemptions; to change certain definitions; to provide a homestead exemption for the full value of the homestead with respect to all ad valorem taxes for the unremarried surviving spouse of a peace officer or firefighter who was killed in the line of duty; to provide qualifications; to provide procedures for obtaining such exemption; to provide for the taxes to which such homestead exemption is applicable; to provide for applicability of provisions relating to applications for and granting homestead exemptions in certain cases of property transfer from an administrator or executor with respect to certain base year assessed value homestead exemptions; to provide for referenda; to provide for effective dates; to provide for applicability; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

**SECTION 1.**

Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to tax exemptions, is amended in Code Section 48-5-40, relating to definitions regarding property tax exemptions, by striking paragraph (1) and inserting in its place a new paragraph (1) to read as follows:

"(1) 'Applicant' means a person who is:

(A)(i) A married individual living with his or her spouse;

~~(B)~~(ii) An individual who is unmarried but who permanently maintains a home for the benefit of one or more other individuals who are related to such individual or dependent wholly or partially upon such individual for support;

~~(C)~~(iii) An individual who is widowed having one or more children and maintaining a home occupied by himself and the child or children;

~~(D)~~(iv) A divorced individual living in a bona fide state of separation and having legal custody of one or more children, when the divorced individual owns and maintains a home for the child or children; or

~~(E)~~(v) An individual who is unmarried or is widowed and who permanently maintains a home owned and occupied by himself; or herself; and

(B) Who is a resident of this state as defined in paragraph (15) of Code Section 40-5-1, as amended."

## PART II

### SECTION 2.

Said part is further amended by adding between Code Sections 48-5-48.2 and 48-5-49 a new Code Section 48-5-48.3 to read as follows:

"48-5-48.3.

(a) As used in this Code section, the term:

(1) 'Ad valorem taxes' means all state ad valorem taxes and all county, county school district, municipal, and independent school district taxes for county, county school district, municipal, or independent school district purposes including, but not limited to, taxes to retire bonded indebtedness.

(2) 'Homestead' means homestead as defined and qualified in Code Section 48-5-40.

(b) Each resident of the state who is the unremarried surviving spouse of a peace officer or firefighter who was killed in the line of duty is granted an exemption on that person's homestead from all ad valorem taxes for the full value of that homestead.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this Code section unless the person or person's agent files an affidavit with the tax commissioner of the county in which that person resides giving such information relative to receiving such exemption as will enable the tax commissioner to make a determination as to whether such person is entitled to such exemption. The tax commissioner shall provide affidavit forms for this purpose and shall require such information as may be necessary to determine the initial and continuing eligibility of the applicant for the exemption.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1. The exemption shall be automatically renewed from year to year as long as the applicant occupies the residence as a homestead. After a person has filed the proper affidavit as

provided in subsection (c) of this Code section, it shall not be necessary to make application and file such affidavit thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Code section to notify the tax commissioner or the designee thereof in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by this Code section shall be in lieu of and not in addition to any other homestead exemption from ad valorem taxes.

(f) The exemption granted by this Code section shall apply to all taxable years beginning on or after January 1, 2007."

### SECTION 3.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of State shall call and conduct a referendum as provided in this section for the purpose of submitting Section 2 of this part to the electors of the State of Georgia for approval or rejection. The Secretary of State shall conduct that election on the date of the November, 2006, state-wide general election. The Secretary of State shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of each county in the state. The ballot shall have written or printed thereon the words:

"( ) YES Shall the Act be approved which provides a homestead exemption for the full value of the homestead with respect to all ad valorem taxes for the ( ) NO unremarried surviving spouse of a peace officer or firefighter who was killed in the line of duty?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, then Section 2 of this part shall become effective on January 1, 2007, and shall be applicable to all taxable years beginning on or after that date. If Section 2 of this part is not so approved or if the election is not conducted as provided in this section, Section 2 of this part shall not become effective and this part shall be automatically repealed on the first day of January immediately following that election date.

### PART III

### SECTION 4.

Said part is further amended in Code Section 48-5-54, relating to applications for and granting homestead exemptions in certain cases of property transfer from an administrator or executor, by striking subsection (b) and inserting in its place a new subsection (b) to read as follows:

"(b) The failure to file properly the application and schedule shall not be cause for waiver of the exemption where such waiver arises because of an administrator's or executor's deed transferring the property to a surviving spouse. In such instances, the board of tax assessors shall give notice of its intent to deny the exemption as required by Code Section 48-5-49, and the surviving spouse may make application for the amount of homestead exemption to which such applicant is entitled within 30 days from the date of the notice by the board of tax assessors. In the case of a base year assessed value homestead exemption, as long as the surviving spouse otherwise meets the requirements specified for such exemption and makes proper application under this subsection, upon approval of such application the exemption shall be continued with the same base year assessed value as had been established for the deceased spouse of such surviving spouse, unless otherwise provided by local law."

#### SECTION 5.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of State shall call and conduct a special election as provided in this section for the purpose of submitting Section 4 of this part to the electors of the State of Georgia for approval or rejection. The Secretary of State shall conduct that special election on the date of the November, 2006, state-wide general election. The Secretary of State shall issue the call and conduct that special election as provided by general law. The Secretary of State shall cause the date and purpose of the special election to be published in the official organ of each county in the state once a week for two weeks immediately preceding the date of the referendum. The ballot shall have written or printed thereon the following:

"( ) YES      Shall the Act be approved which provides that, with respect to base year assessed value homestead exemptions, the surviving spouse of a deceased spouse who has been granted such a homestead exemption shall receive that exemption at the same base year valuation that applied to the deceased spouse so long as that surviving spouse continues to occupy the home as a residence and homestead?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on

1 such question are for approval of the Act, then Section 4 of this part shall become effective  
2 on January 1, 2007, and shall apply to all taxable years beginning on or after that date. If  
3 Section 4 of this part is not so approved or if the election is not conducted as provided in this  
4 section, Section 4 of this part shall not become effective and this part shall be automatically  
5 repealed on the first day of January immediately following that election date.

6 **PART IV**

7 **SECTION 6.**

8 Except as otherwise provided in Section 3 of Part II of this Act and Section 5 of Part III of  
9 this Act, this Act shall become effective upon its approval by the Governor or upon its  
10 becoming law without such approval.

11 **SECTION 7.**

12 All laws and parts of laws in conflict with this Act are repealed.